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August 6, 2004

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

RE: Regulation DD; Docket No. R-1197

Dear Ms. Johnson:

This comment letter is being submitted on behalf of Union Bank & Trust Company, A Nebraska Banking Corporation, in response to the request for public comment made by the Federal Reserve Board ("FRB") as it relates to Docket Number R-1197, published in the Federal Register, June 7, 2004.

The proposed amendments to Regulation DD (Truth in Savings) will require financial institutions to provide additional information related to overdraft protection ("ODP") services as well as address issues related to the marketing of said programs. While we agree with many of the provisions found in the Proposal, we do have some concerns as they relate to ODP services.

230.6 Periodic Statement Disclosure

Under the proposed rule, financial institutions will be required to provide a summary of overdraft (paid item) fees and returned item fees on the periodic statement. This summary will include the total amount paid in fees over the current statement period and calendar year to-date.

We feel that our current process of disclosing overdraft fees is adequate at this time and includes:

- At the time an account is opened (or upon request), our customer is provided with a schedule of fees and charges. The schedule of fees and charges includes all fees associated with the account, including our non-sufficient fund fees.
- At the time an overdraft is created, an overdraft notice is created and sent to the customer. The overdraft notice includes whether the item(s) was paid or returned and includes any fee(s) assessed for processing the overdraft item(s).
- Finally, any overdraft fee(s) charged to a customer will appear on the customer's monthly statement. Overdraft fees post to the customer's account the day after the item(s) was presented for payment.

We agree that disclosing overdraft fees to the consumer is of the utmost importance. We are, however, concerned that singling out overdraft fees on the periodic statement may mislead the consumer about the overall cost associated with their account. Account maintenance fees, foreign ATM fees and stop payment fees may be equally important to consumers but may be overlooked on the statement if the effort is made to draw specific attention to overdraft fees.

Providing this information is not currently part of our periodic statement and would require significant programming expense for us and many financial institutions as well as an unknown amount of time to make it operational with little to no effect resulting from this change.

230.8 – Advertising

Under the proposed rule, institutions with ODP services will be asked to describe in advertising materials the circumstances under which it would not pay an overdraft. This proposal, if added, would remove discretion from overdraft process and ultimately put financial institutions in a “committable” situation when dealing with overdraft items.

The Uniform Commercial Code (UCC) currently allows financial institutions the discretion on how to pay items as they are presented. Institutions use the same discretion to determine whether an item creating an overdraft is paid or returned.

This provision of the proposed rule, if adopted, would remove discretion from the process and allow consumers to believe that as long as they manage their account according to disclosed criteria; items creating an overdraft would then be paid which may not be true.

We appreciate the opportunity to comment on the importance of overdraft protection services as it relates to the proposed changes of Regulation DD. If you have any questions concerning these comments or we may be of further assistance regarding overdraft protection services, please do not hesitate to contact me at (402) 323-1536.

Respectfully,

Brian Bates
Deposit Compliance Officer